

House Engrossed Senate Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 239

SENATE BILL 1106

AN ACT

AMENDING SECTION 28-872, ARIZONA REVISED STATUTES; RELATING TO THE REMOVAL OF VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-872, Arizona Revised Statutes, is amended to
3 read:

4 28-872. Removal of vehicles; notice; liability for costs;
5 hearing

6 A. If a police officer finds a vehicle standing on a highway in
7 violation of section 28-871 the officer may move the vehicle or require the
8 driver or other person in charge of the vehicle to move the vehicle to a
9 position off the paved or main traveled part of the highway.

10 B. A police officer may remove or cause to be removed to a place of
11 safety an unattended vehicle that is illegally left standing on a highway,
12 bridge or causeway or in a tunnel in a position or under circumstances that
13 obstruct the normal movement of traffic.

14 C. A police officer may remove or cause the removal of a vehicle to
15 the nearest garage or other place of safety as follows:

16 1. If a report has been made that the vehicle has been stolen or taken
17 without the consent of its owner.

18 2. If the person or persons in charge of the vehicle are unable to
19 provide for its custody or removal.

20 3. If the person driving or in control of the vehicle is arrested for
21 an alleged offense for which the officer is required by law to take the
22 person arrested before a proper magistrate without unnecessary delay.

23 4. If the vehicle is left unattended for more than four hours on the
24 right-of-way of a freeway that has full control of access and no crossings at
25 grade.

26 5. Within the boundaries of a city, if the vehicle is left unattended
27 for more than two hours on the right-of-way of a freeway that has full
28 control of access and no crossings at grade.

29 D. If a police officer removes or causes the removal of a vehicle
30 pursuant to this section, the police officer shall do ~~one~~ BOTH of the
31 following when the vehicle is removed:

32 1. Provide to the tow truck operator a form that the police officer
33 signs and that includes the following information:

34 (a) The vehicle identification number.

35 (b) A number identifying the law enforcement agency and the officer
36 ordering the tow.

37 (c) The year, make and model of the vehicle.

38 (d) The license plate number if available.

39 (e) The date and time the vehicle was towed.

40 (f) The address from which the vehicle was towed.

41 (g) The name, address and telephone number, if the telephone number is
42 known, of the registered owner and the primary lien holder of the vehicle to
43 permit the towing company to notify the registered owner or the primary lien
44 holder.

1 2. Electronically communicate to the officer's law enforcement agency
2 ~~both of the following and provide to the towing company that towed the~~
3 ~~vehicle the name, address and telephone number, if the telephone number is~~
4 ~~known, of the registered owner and the primary lien holder of the vehicle IF~~
5 ~~THE OFFICER HAS THE EQUIPMENT TO ELECTRONICALLY COMMUNICATE THE INFORMATION:~~

6 (a) The name and telephone number of the person towing the vehicle.

7 (b) The information prescribed by paragraph 1 of this subsection.

8 E. If a police officer provides the tow truck operator with the form
9 described in subsection D, paragraph 1 of this section, the tow truck
10 operator must provide the form to the person responsible for filing the
11 abandoned vehicle report pursuant to section 28-4838. The person responsible
12 for filing the abandoned vehicle report shall submit the form to the
13 department of transportation at the time the person files the abandoned
14 vehicle report.

15 F. The law enforcement agency receiving electronic information
16 pursuant to subsection D of this section shall record the information as
17 prescribed by the department of public safety. The department of public
18 safety shall make the information available to the department of
19 transportation.

20 G. When the department of transportation receives the information from
21 either the department of public safety or the person responsible for filing
22 the abandoned vehicle report pursuant to section 28-4838, the department of
23 transportation shall send notice by first class mail to all persons listed on
24 the department of transportation's records as having an ownership interest in
25 the vehicle. The notice shall include the vehicle identification number and
26 the name and telephone number of the person that towed the vehicle. The
27 director of the department of transportation may include additional
28 information on the notice as the director deems necessary.

29 H. Except as provided in subsection I of this section:

30 1. The public agency employing an officer who removes or causes the
31 removal of a vehicle under this section is not liable for the cost of towing
32 or storing the vehicle if the officer acts under color of the officer's
33 lawful authority.

34 2. Before release of the vehicle by the towing service, the owner or
35 the owner's agent of a vehicle that is removed or caused to be removed under
36 this article shall pay or make satisfactory arrangements to pay for any
37 reasonable towing and storage costs incurred in towing or storing the
38 vehicle.

39 I. If a tow truck operator is required in writing by a public agency
40 to tow or store a vehicle that is required as evidence in a criminal action
41 or for future criminal investigation by the public agency, the public agency
42 is liable for the towing and storage costs of the vehicle.

1 J. If a police officer removes or causes the removal of a vehicle as
2 permitted by this section, the public agency employing the officer shall
3 provide the registered owner of the vehicle or the registered owner's agent
4 with the opportunity for a poststorage hearing to determine the validity of
5 the removal. This hearing shall be conducted within forty-eight hours after
6 a request, excluding weekends and holidays. The public agency employing the
7 officer may authorize its own officer or employee to conduct the hearing if
8 the hearing officer is not the same person who removed or caused the removal
9 of the vehicle. The public agency employing the officer who removes or
10 causes the removal of the vehicle is responsible for the costs incurred for
11 towing and storage if it is determined at the hearing that probable cause for
12 the removal cannot be established.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.